IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7120 of 1999

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

G S R T CORPN

Versus

MAHENDRAKUMAR V TANDEL

Appearance:

MRS VASAVDATTA BHATT for Petitioner

MR MUKESH H RATHOD for Respondent

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 23/02/2000

ORAL JUDGEMENT

1. Rule. Mr. Prabhakar Upadhyaya waives service of Rule. On a joint request of learned counsel for the parties the petition is taken up for final hearing today.

2. This is a petition under Article 227 of the

Constitution of India though styled as one under Articles 226 and 227 of the Constitution, at the instance of the Gujarat State Road Transport Corporation, challenging the judgement and award of the Labour Court in Reference (LCV) No.612/96. The respondent-employee was engaged by the petitioner-Corporation as a conductor, and was charged in the domestic inquiry for misconduct wherein he had collected fare from five passengers, but had in some cases issued tickets which were already used and expired, and had thereby committed misappropriation. Even otherwise, in respect of another passenger he had collected fare of Rs.2/-, but had not issued a ticket upto the stage where the bus was stopped and checked by the checking squad. It was further found that in the cash carried by him (official cash collected by sale of tickets) there was a shortage of Rs.14.55, whereas so far as his personal cash was concerned, he had prior to the trip registered the sum as Rs.50/-, but an excess some of Rs.177/- was found on his person. It was also found that in his career of 12 years he had committed misconducts of almost 40 instances in respect of non-issuance of tickets to passengers, which included four incidents of re-issuance of used and expired tickets. It also appeared that the appeal filed by the workman as also the second departmental appeal were rejected by the appellate authorities for these reasons. On the facts and circumstances of the case the Labour Court found that the charges were proved against him, but the Court took a compassionate view and relied upon the fact that the conductor was of the age of 39 years, that he was far from the age of retirement, that he deserves at least one further chance and that he has put in 13 years of service, and ultimately directed that he should be reinstated without backwages with further stoppage of two increments with permanent effect.

3. The petitioner Corporation in the present petition challenges the judgement and award on the ground that the punishment imposed is excessively lenient.

4. As a result of the hearing and discussion a consensus has been arrived at between the learned counsel, in due consultation with their respective clients, on the basis of which it is agreed that the aforesaid order of punishment imposed by the Labour Court requires to be enhanced. Also on the basis of this consensus, it is directed that the respondent workman shall be reinstated without any backwages and shall also suffer stoppage of five increments with permanent effect. The workman shall also file an undertaking on oath with the petitioner Corporation, which undertaking shall form

part of the service record and shall be entered in the default sheet to the effect that in case in future he is found guilty in any disciplinary inquiry, involving any financial irregularity whatsoever, he shall neither ask for nor be entitled to any leniency whatsoever. The said undertaking shall be filed with the Divisional Controller, Valsad, latest by 10th March 2000, it being distinctly understood that there shall be no extension of time for the purpose of filing the undertaking.

5. It is so accordingly directed. The impugned judgement and award stands modified to the aforesaid extent. Rule is accordingly made absolute with no order as to costs. Ad interim stay stands vacated.

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